PUBLIC HEALTH APPEAL BOARD ANNUAL REPORT 2000

Alberta
HEALTH AND WELLNESS

For additional copies of this report, contact the
Public Health Appeal Board
24th Floor, 10025 JASPER AVENUE
EDMONTON, ALBERTA T5J 2N3
(780) 427-2813
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ALBERTA
HEALTH AND WELLNESS

Office of the Minister

July 17, 2001

The Honourable Ken Kowalski, M.L.A.
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

I have the honour to present the Annual Report of the Public Health Appeal Board for the year January 1, 2000 to December 31, 2000.

Sincerely,

Gary G. Mar

Gary G. Mar, Q.C.
Minister of Health and Wellness
M.L.A. Calgary Nose Creek

Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 780/427-3665 Fax 780/415-0961

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HEALTH AND WELLNESS

PUBLIC HEALTH APPEAL BOARD

24th Floor, Telus Plaza North Tower
10025 Jasper Avenue
Edmonton, Alberta
Canada T5J 2N3

Tel: (780) 427-2813
Fax: (780) 422-0914

January 2001

The Honourable Gary G. Mar, Q.C.
Minister of Health & Wellness
323 Legislature Building
Edmonton, Alberta
T5K 2B6

Minister:

I have the honour and privilege to present the Annual Report of the Public Health Appeal Board for the year January 01, 2000 to December 31, 2000.

Respectfully submitted,

Hilton R Pharis

Hilton R. Pharis, Chairman
Public Health Appeal Board

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Public Health Appeal Board Members

Hilton R. Pharis (Lundbreck)
Chair

Appointed chair February 03, 1999. Past vice-chair of the Public Health Advisory and Appeal Board. Mr. Pharis is a cattle rancher and past chairman of the Oldman River Dam Environmental Advisory Committee. He was elected to the council of the Municipal District of Pincher Creek from 1961 to 1989, and is past chairman of the Oldman River Regional Planning Commission and the Health Unit Association of Alberta.

Louise Lougheed (St. Albert)
Vice-chair

Appointed vice-chair February 03, 1999. Presently contracts secretarial/computer work out of her home for two consulting management firms. A member of the Aspen Regional Health Authority #11 from 1994 to 1995. Ms. Lougheed was in a supervisory position at Athabasca University Library in Athabasca for nine years before moving to St. Albert.

Marvie Kenny (Oyen)
Alternate Vice-chair

Appointed alternate vice-chair April 08, 1999. Ms. Kenny is a dental hygienist and partner on a grain farming operation. She is a volunteer for various community organizations.

Karen Egge (Woking)
Member

Ms. Egge is the executive director of the Northwest Regional Learning Consortium and partner in a mixed farm operation in northern Alberta. She has provided extensive community service through school trusteeship and College Board leadership.

William Love (Calgary)
Member

Mr. Love is an independent insurance broker and consultant. He is the chairman of the Board of Examiners for Certified Dental Mechanics and is a willing volunteer for church and community organizations.

Margaret Niehaus - Administrative Assistant/Coordinator

Background

The Public Health Appeal Board (PHAB) was established on February 03, 1999 under the provisions of the Alberta Public Health Act as amended. The new Public Health Appeal Board replaced the former Public Health Advisory and Appeal Board, which was established in 1985.

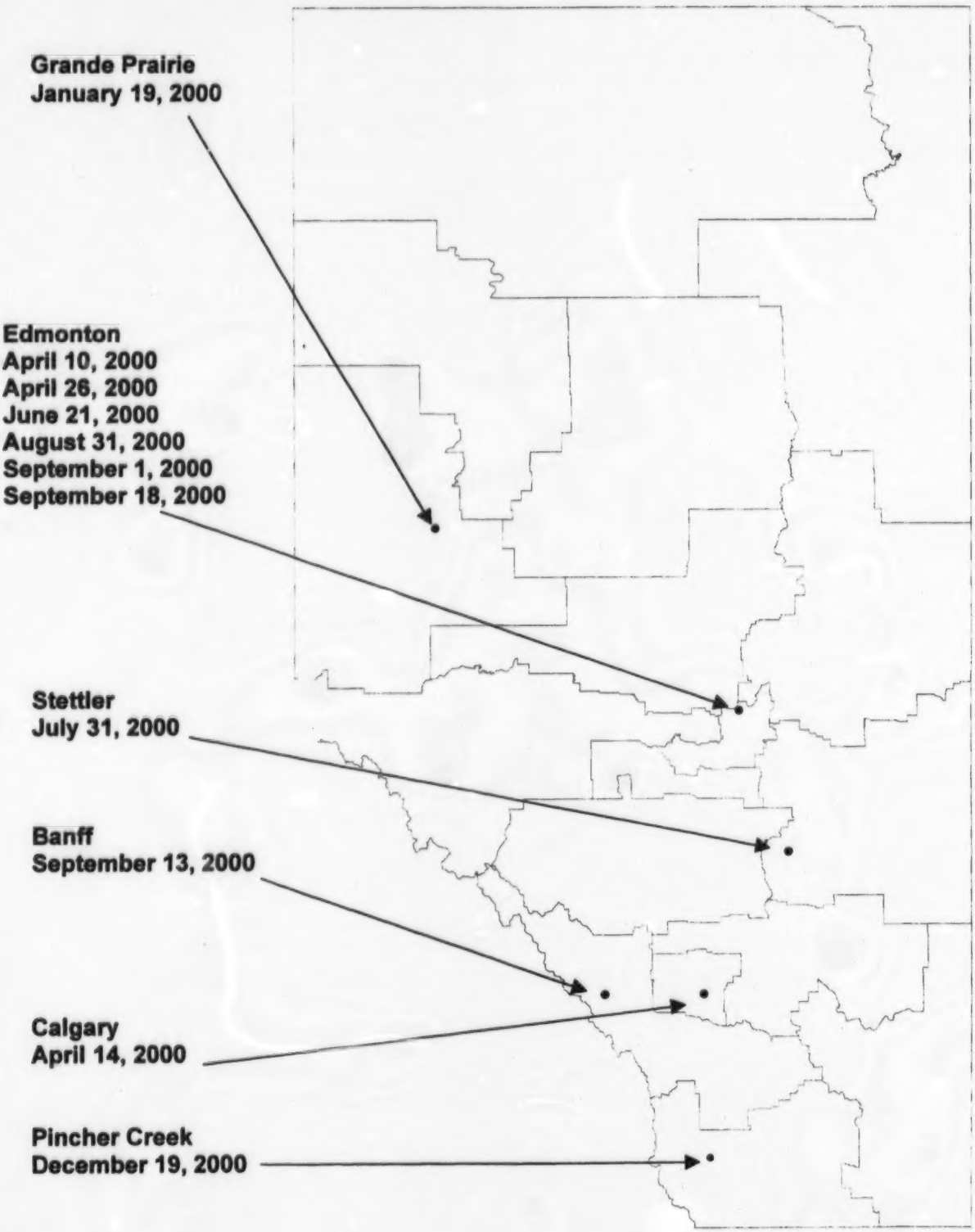
PHAB is subject to the general rules of administrative law and natural justice as they apply to quasi-judicial tribunals. To that end, PHAB has retained Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP to provide independent legal counsel.

Duties

The Public Health Appeal Board shall hear appeals of decisions of a regional health authority as defined in the Public Health Act. A person who is directly affected by a decision of a regional health authority and considers himself or herself aggrieved by the decision may appeal the decision to PHAB. The Board may also engage the services of persons having special technical, professional or other knowledge to assist it in the hearing of appeals. Once the appeal is heard the Board may confirm, reverse or vary the decision of the regional health authority and shall give written notice of its decision to the appellant and the regional health authority.

To carry out these duties, PHAB comprises of five members with varied professional backgrounds with representation across the province of Alberta.

Locations of Hearings



Appeal Activities and Summaries

The following is a summary of all appeals or applications that were received and/or heard by the Public Health Appeal Board from January 01, 2000 to December 31, 2000.

08/99
Mistahia Regional Health Authority and Anne Sorenson of Wembley, Alberta

Appeal of an Order of an Executive Officer of the Mistahia Regional Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

Hearing held January 19, 2000
PHAB upheld the Order issued by the Executive Officer of the Mistahia Regional Health Authority. Ms. Sorenson was required to install glass storm windows as outlined in the *Minimum Housing & Health Standards*. The gas leak and the bathroom wall had both been repaired. There did not appear to be a problem of a leaking roof, and accordingly no longer an issue before the Board.

01/00
Capital Health Authority and Fred Mah of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

The Appellant withdrew his appeal.

02/00
Palliser Health Authority and Maria Gazdarica of Calgary, Alberta

Appeal of an Order of an Executive Officer of the Palliser Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

Hearing held April 14, 2000
PHAB upheld the Order issued by the Executive Officer of the Palliser Health Authority. Ms. Gazdarica was to have the premises vacated immediately and this was to stay in effect until a number of deficiencies have been corrected to the satisfaction of an Executive Officer of the Palliser Health Authority.

03/00

Capital Health Authority and Garry McGrath of Ardrossan, Alberta

Appeal of an Order of an Executive Officer of Capital Health Authority under Section 72 of the *Public Health Act,* requiring the appellant to cease allowing sewage effluent from being discharged onto the ground surface and to have all sewage effluent disposed of in an approved sewage disposal system.

The Appellant complied with the Order and accordingly withdrew his appeal.

04/00

Capital Health Authority and Amelia Leung of Edmonton, Alberta

Appeal of two Orders of an Executive Officer of Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

Hearing held April 10, 2000
PHAB upheld the Orders issued by the Executive Officer of the Capital Health Authority. Ms. Leung was to either correct the conditions identified in the Order to the satisfaction of the Capital Health Authority or to have the premises remain vacant.

05/00

Capital Health Authority and Ralph E. J. Lineger of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act*, requiring the owner to repair a number of deficiencies of the Housing Regulation by a specified date.

Hearing held April 26, 2000
PHAB varied the Order issued by the Executive Officer which gave the Appellant an extension of time to decide the future of the apartment building. Should the Appellant decide to close the building, the extension of time would allow their tenants ample notice to vacate. The Board also varied the Executive Officer's Order to read: "Ensure that all walls, windows, ceiling, floors, and floor coverings are maintained in good repair, free of cracks, holes, loose or lifting covering and in a condition that renders it easy to clean *to the satisfaction of the Executive Officer."*

06/00

Capital Health Authority and Marc Kowaluk of Edmonton, Alberta

Appeal of two Orders of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

After the Notice of Appeal was filed, further discussions continued between the Capital Health Authority and the Appellant. The Executive Officer of the Capital Health Authority granted an extension of time for the Appellant to vacate the premises or clean up the premises to an acceptable level of sanitation. The Appellant then withdrew his appeal.

07/00

East Central Regional Health Authority and Gwen Gramlich of Altario, Alberta

Appeal of an Order of an Executive Officer of the East Central Regional Health Authority under Section 72 of the *Public Health Act*, requiring the owner to close the premises until the conditions that may become injurious or dangerous to health are corrected to the satisfaction of an Executive Officer of the East Central Regional Health Authority.

The Appellant withdrew her appeal.

08/00

Capital Health Authority and 289758 Alberta Inc. of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

The Appellant withdrew his appeal.

09/00

Capital Health Authority and Marc Kowaluk of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

Hearing held June 21, 2000

PHAB upheld the Order issued by the Executive Officer of the Capital Health Authority requiring Mr. Kowaluk to remove his personal belongings from the housing premises within seven days. There was no doubt that the materials accumulated in this property did present a public health nuisance.

10/00
East Central Regional Health Authority and John Grindley of Stettler, Alberta

Appeal of an Order of an Executive Officer of the East Central Regional Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

Hearing held July 31, 2000
PHAB upheld the Order issued by the Executive Officer of the East Central Regional Health Authority. Mr. Grindley was to vacate his suite no later than July 31, 2000 and the owner was not to permit further occupancy of this suite until the conditions that might become injurious or dangerous to public health are corrected to the satisfaction of an Executive Officer of the East Central Regional Health Authority.

11/00
Westview Regional Health Authority and Brian Collin of Edson, Alberta

Appeal of an Order of an Executive Officer of the Westview Regional Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

The Appellant complied with the Order; accordingly the appeal did not proceed.

12/00
Headwaters Health Authority and Kerry-Lee Schultheis/Banff YWCA of Banff, Alberta

Appeal of an Order of an Executive Officer of the Headwaters Health Authority under Section 72 of the *Public Health Act*, declaring the premises were being maintained in an overcrowded condition for sleeping purposes, which may become hazardous to the health of the occupants. Directions were given to the YWCA.

Hearing held September 13, 2000
PHAB agreed to a "Consent Order" drafted by both parties prior to the hearing. The public health concerns arising out of the overcrowding conditions related only to matters of air circulation and air quality. The Executive Officer's Order was varied: during the summer tourist season, the YWCA was to provide within the dormitory-style, multi-bed accommodation units, enhanced air circulation and air exchange through mechanical means to the reasonable satisfaction of the Headwaters Health Authority. Following the close of the summer tourist season when the enhanced mechanical air circulation and exchange unit is not consistently in operation, the number of beds should be reduced to conform with the provisions of the *Minimum Housing and Health Standards* in respect to space for sleeping purposes. The terms of this Order must be implemented no later than noon on November 1, 2000.

13/00
Capital Health Authority and Frank Konanz of Sherwood Park, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* requiring the appellant to cease pumping septic tank effluent into the ditch, to remove piping, and to ensure that all septic tank effluent is disposed of at an approved site.

Hearing held August 31, 2000
PHAB varied the Order issued by the Capital Health Authority. Mr. Konanz should be at liberty to use piping in the construction of a septic system if it is required in the construction of an approved and acceptable system. Mr. Konanz shall cease pumping septic tank effluent into the ditch on the west side of the said lot or anywhere else in the Hamlet of Looma and ensure that all septic tank effluent from the said lot is disposed of in a manner which is in compliance with the Nuisance & General Sanitation Regulation.

14/00
Calgary Regional Health Authority and J.B. Chisan of Calgary, Alberta

Appeal of an inspection report of an Executive Officer of the Calgary Regional Health Authority requiring the Appellant to complete 15 conditions immediately in order to continue operation of a social care facility.

The Board did not have grounds to deal with this appeal as the inspection report was not an Order or Decision that could be appealed pursuant to Section 4 of the Public Health Act.

15/00
Calgary Regional Health Authority and Karen Clark of Calgary, Alberta

Appeal of an inspection report of an Executive Officer of the Calgary Regional Health Authority requiring the Appellant to complete 15 conditions immediately in order to continue operation of a social care facility.

The Board did not have grounds to deal with this appeal as the inspection report was not an Order or Decision that could be appealed pursuant to Section 4 of the Public Health Act.

16/00
Capital Health Authority and Vicki Wong of Edmonton, Alberta

Appeal of two Orders of Executive Officers of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises on two properties unfit for human habitation.

Hearing held September 1, 2000
PHAB upheld the Orders issued by the Executive Officers of the Capital Health Authority. The owner of both properties must not permit occupancy of the premises until authorized to do so by an Executive Officer of the Capital Health Authority. Several conditions that might become injurious or dangerous to public health were to be corrected to the satisfaction of an Executive Officer of the Capital Health Authority or have the premises remain vacant.

17/00
Capital Health Authority and Craig Murray of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

The Appellant complied with the Order and accordingly withdrew his appeal.

18/00
Capital Health Authority and Amelia Leung of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* requiring the owner to provide a Structural Engineer's report and to repair a number of deficiencies prior to occupancy of the housing premises.

Hearing held September 18, 2000
PHAB varied the Order such that some flexibility was given to the Appellant as to when a structural engineer's report would be required. The Appellant was required to:

a) either have a structural engineer's report indicating the structural stability of the building and where necessary, the corrective measures to be taken, by September 30, 2000; or in the alternative, ensure the premises are unoccupied and physically secured against any occupancy, and

b) attend to a number of deficiencies prior to allowing occupancy.

19/00

Capital Health Authority and Monica Leung of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

There was no basis for an appeal hearing, as there was no outstanding Order or Decision from an Executive Officer of the Capital Health Authority.

20/00

Capital Health Authority and Monica Leung of Edmonton, Alberta

Appeal of an Order of an Executive Officer of the Capital Health Authority under Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation.

The appeal was filed substantially beyond the time limit required to file. It was the Board's decision not to extend the time period for appeal in the particular circumstances of this case. The hearing did not proceed as a result.

21/00

Westview Regional Health Authority and Yvonne M. Cairns/Timothy Philips of Carvel, Alberta

Appeal of an Order of an Executive Officer of the Westview Regional Health Authority under Section 72 of the *Public Health Act,* requiring the appellant to immediately stop and desist the discharge of liquid waste on to the ground surface and to repair the sewage disposal system.

The Appellant complied with the Order and accordingly withdrew the appeal.

22/00

Chinook Regional Health Authority and Joseph Tai of Calgary, Alberta

Appeal of an Order of an Executive Officer of the Chinook Regional Health Authority pursuant to Section 72 of the *Public Health Act,* declaring the housing premises unfit for human habitation, and requiring the occupants to vacate the premises.

Hearing held December 19, 2000

The Board upheld the Executive Officer's Order, finding that it was appropriate in the circumstances.

Other Activities

The **Environmental Health Law Conference** provided all members with an update on the administration of public health law. The conference was held at the Palliser Hotel in Calgary from October 25 – 27, 2000.